

**RICHMOND, CALIFORNIA, May 19, 2009**

The Regular Meeting of the Richmond City Council was called to order at 5:07 p.m. by Mayor Gayle McLaughlin.

**ROLL CALL**

**Present:** Councilmembers Bates, Butt, Lopez, Ritterman, Rogers, Viramontes, and Mayor McLaughlin. **Absent:** None.

**PUBLIC COMMENT**

The city clerk announced that the purpose of the Open Session was for the City Council to hear public comments on the following items to be discussed in Closed Session:

**CITY COUNCIL**

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Subdivision [a] of Government Code Section 54956.9):** Andre Mogannam vs. City of Richmond: Claims Settlement Authorization; Citizens of the East Shore State Parks vs. City of Richmond; City of Richmond vs. Church of Deliverance.

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Initiation of litigation pursuant to Subdivision (c) of Section 54956.9):** One case

There were no public speakers.

The Open Session adjourned to Closed Session at 5:08 p.m. The Closed Session adjourned at 6:57 p.m. The Regular Meeting of the City Council was reconvened at 7:27 p.m. by Mayor Gayle McLaughlin.

**ROLL CALL**

**Present:** Councilmembers Bates, Butt, Lopez, Ritterman, Rogers, Viramontes, and Mayor McLaughlin. **Absent:** None.

**STATEMENT OF CONFLICT OF INTEREST**

None.

**AGENDA REVIEW**

Withdrew Item F-12, I-4 and J-5 from the agenda. Removed item F-6, F-11, and F-14 from the Consent Calendar.

**REPORT FROM THE CITY ATTORNEY OF  
FINAL DECISIONS MADE AND NON-  
CONFIDENTIAL DISCUSSIONS HELD  
DURING CLOSED SESSION**

**CONFERENCE WITH LEGAL  
COUNSEL - EXISTING LITIGATION  
(Subdivision [a] of Government Code Section**

**54956.9):** Andre Mogannam vs. City of Richmond: Claims Settlement Authorization; Citizens of the East Shore State Parks vs. City of Richmond; *No reportable actions.*

City of Richmond vs. Church of Deliverance.  
*The Council approved a settlement pursuant to which the defendants will transfer property located at 111 and 113 Macdonald Avenue to the City of Richmond and the City of Richmond will in exchange drop its law suit and pay the defendant \$6,000.*

**CONFERENCE WITH LEGAL  
COUNSEL - ANTICIPATED LITIGATION  
(Initiation of litigation pursuant to Subdivision**

**(c) of Section 54956.9):** One case. *Continued to May 26, 2009.*

**CONSENT CALENDAR**

On motion of Councilmember Viramontes, seconded by Rogers, all items marked with an asterisk (\*-) were approved by the unanimous vote of the Council.

\*-Approved a contract with Jackson and Son Plumbing to provide the water supply to three drinking water fountains that are part of the Native American Statue at 135 Washington Street (Point Richmond Plaza), including construction plans and specifications, in an amount not to exceed \$11,400, including \$1,900 (20%) for unforeseen work.

\*-Approved a contract with Bovo-Tighe, LLC, to provide organizational development consulting and operational leadership excellence planning in an amount not to exceed \$97,000 over a three-year term ending June 30, 2011

\*-Approved a recommendation that the City Council cancel the uniform services contract with Ameripride Uniform Services due to non-compliance and APPROVE a one-year contract with two one-year options to the low bidder Aramark Uniform Services to provide uniform services in an amount not to exceed \$102,000 per year.

\*-Approved a vehicle lease agreement with Saadeh Corporation, dba Auto World, to provide the Richmond Police Department with undercover vehicles for use in its narcotics operations for the period July 1, 2009, to June 30, 2010, at a cost not to exceed \$150,000.

\*-Approved a contract amendment #1 with Gordon & Rees, LLP, for legal representation in the lawsuit West County Wastewater District vs. City of Richmond, increasing the amount by \$50,000 for a total of \$58,000 and extending the term to December 31, 2010.

A proposal to approve contract and funding with Pyro Spectaculars North, Inc. for the citizen's 2009 Fireworks Celebration to be held July 3, 2009, at Marina Bay Park, in the amount of \$29,000 was presented. The citizen that pulled the item from the Consent Calendar was no longer in the Chambers. On motion of Councilmember Ritterman, seconded by Councilmember Rogers approved the contract by the unanimous vote of the Council.

\*-Approved a contract in the amount of \$75,000 with the Richmond Art Center (RAC) to administer the 2009 Neighborhood Public Art Program.

\*-Approved a contract with Bickmore & Associates Inc., dba Bickmore Risk Services and Consulting, to provide a series of training sessions to the Richmond Police Department on diversity, workplace cultural issues, prevention of workplace harassment, and other employment-related issues at a cost not to exceed \$15,000.

\*-Approved a background investigations agreement with Elite Backgrounds Inc. for the period June 1, 2009, to May 31, 2010, at a cost not to exceed \$40,000.

\*-Approved a three-year contract with CRW for continued maintenance and support of the CRW TRAKiT software totaling \$72,000 over the life of the agreement. The contract amount is payable annually in the amount of \$23,000 in the first year and increasing \$1,000 annually in each of the succeeding two years.

A proposal to approve the City of Richmond's participation in a joint exercise of powers agreement (JPA) to develop a sustainable regional biosolids to energy facility within the Bay Area, by amending the March 30, 2006, agreement, entitled "Joint Exercise of Powers Agreement " to "pursue CEQA documentation and facility planning services for a proposed bay area solids recycling facility" ("Agreement") to add additional parties including the City of Richmond, expand the scope of activities, and modify the funding arrangements was presented. Councilmember Viramontes gave a brief overview of the item and directed staff to convey that of the eight sites selected for this regional center, Richmond is not going to be considered a site. On motion by Councilmember Viramontes, seconded by Vice Mayor Lopez approved the City of Richmond's participation in a joint exercise of powers agreement (JPA) to develop a sustainable regional biosolids to energy facility within the Bay Area by unanimous vote of the Council.

**Withdraw from agenda** a proposed resolution authorizing the finance director to execute documents necessary to provide a subordinate pledge of General Fund revenue as a guaranty to the East Bay Center for the Performing Arts (the "Center") to secure funding for the completion of the Winters Building Project.

\*-Approved the following appointments: Design Review Board: Donald Woodrow (incumbent), term expiring June 1, 2011; Historic Preservation Advisory Committee: Amanda Elliott, term expiring May 19, 2011; Human Relations and Human Rights Commission: Betty Burrus-Wright, term expiring March 30, 2010 (completing an unexpired term); Vivien Feyer, term expiring March 30, 2011 (completing an unexpired term); Wendy Gonzalez, term expiring March 30, 2011; Gonzalo Rucobo, term expiring May 19, 2012; Demetria Saunders, term expiring May 19, 2012. **Councilmember Bates abstained on this item.**

A proposed ordinance was introduced for first reading amending the Trespassing Ordinance to empower businesses to prohibit unwanted persons from returning to their establishments for a period of up to one year when specific criteria have been met. Police Lieutenant Mark Gagen gave an overview of the item. Jackie Thompson and Corky Booze spoke on this item. On motion of Councilmember Ritterman, seconded by Councilmember Viramontes said ordinance received first reading and was held over two weeks for second reading by the unanimous vote of the Council.

**On motion of Mayor McLaughlin, seconded by Councilmember extended the meeting for three minutes by the unanimous vote of the Council.**

\***Adopted Resolution No. 41-09** to submit to Richmond voters at the November 2, 2010, General Municipal Election an ordinance amending the City's Utility Users' Tax so that all users, including large industrial users, shall pay utility users taxes based on actual usage, and to ensure that the tax covers all gas which is used or consumed to produce energy or for any other purpose.

\*-Approved the minutes of the Regular Meeting held on April 21, 2009.

#### **OPEN FORUM FOR PUBLIC COMMENT**

Naomi Williams invited everyone to the Juneteenth Festival on June 20, 2009, parade begins at 10:00 a.m. at Marina Way and Cutting Boulevard and ends at Nicol Park on 33<sup>rd</sup> Street and Macdonald Avenue.

Leonard Taylor was concern that the newly installed Shotspotter equipment would not be able to distinguish between fireworks and gunshots.

Corky Booze expressed his appreciation for the tremendous job the City Manager's Office did on the non-profit forum. He also expressed concern regarding the Office of Neighborhood Safety. He also stated that Richmond children are being blamed for the incident that took place at Portola Middle School.

Simms Thompson expressed his disappointment for the lack of bus stop shelters throughout the City of Richmond.

Police Chief Magnus stated that the Shotspotter has the ability to distinguish between gun shots and fireworks.

Jackie Thompson read a poem entitled "Hater".

Jovanka Beckles read an article from a Jet Magazine regarding Lisa Jackson of the Environmental Protection Agency.

Maxine Henagan stated the City Council should work together for the good of the city.

## **PUBLIC HEARING**

The city clerk announced it was time set pursuant to public notice to conduct a public hearing on an appeal filed by Margaret Peterson of the Design Review Board's conditional approval of a Design Review Permit (PLN 09-038) to raise the existing residence located at 302 Santa Fe Avenue by 34 inches for the purpose of converting the basement/crawl space into living space. Planning and Building Services Director Richard Mitchell gave an overview of the item. Mayor McLaughlin declared the public hearing open. The appellant Margaret Peterson and the applicant James Carpenter spoke on the item. Other speakers were: George Beal and Lisa Olsen. On motion of Councilmember Viramontes, seconded by Councilmember Rogers, closed the public hearing by the unanimous vote of the Council. Following discussion, a motion was made by Councilmember Butt, seconded by Vice Mayor Lopez to continue the hearing in 30 days and direct the city manager to designate staff to mediate with applicant and appellant in an effort to come to an agreement. A substitute motion was made by Councilmember Viramontes, seconded by Councilmember Bates to uphold the decisions of all agencies that approved the permit and deny the appeal. City Clerk Diane Holmes read into the record an e-mail from Mr. Malrey, a neighbor of both the appellant and applicant, in support of the applicant. Following discussion, the substitute motion was approved and **Resolution No. 42-09** was adopted by the following vote: **Ayes:** Councilmembers Bates, Ritterman, Rogers, and Viramontes. **Noes:** Councilmember Butt and Mayor McLaughlin. **Abstention:** Vice Mayor Lopez. **Absent:** None.

## **ORDINANCES**

\*\* A proposed ordinance was introduced for first reading adding Chapter 9.58 to the Richmond Municipal Code regarding the prohibition of cigarette and tobacco product sampling within the City of Richmond

\*\*A proposed ordinance was introduced for first reading repealing Chapter 9.18 and adding Chapter 9.56 that prohibits secondhand smoking in certain designated public places

\*\* A proposed ordinance was introduced for first reading repealing Chapter 7.104 and adding Chapter 7.106 entitled "Tobacco Retailer License," which requires tobacco retailers to secure a tobacco retailer license from the Police Department before selling cigarettes and tobacco products within the City of Richmond

**\*\*Items I-1, I-2, and I-3 were presented together. Councilmember Ritterman gave an overview of the item. Speakers were: Naomi Williams, Simms Thompson Jaime Jenett, Julie M. Waters, Naomi Williams, Denise Dennis, and Dr. Valerie Yerger. On motion of Councilmember Viramontes, seconded by Councilmember Ritterman all three ordinances received first reading and were laid over two weeks for second reading by the unanimous vote of the Council.**

**Withdrew from agenda** a proposed ordinance (first reading) enacting local eviction control on properties in foreclosure or subject to a forced sale or sale under the power of sale of a deed of trust by prohibiting eviction of residential tenants except as authorized by ordinance

### **COUNCIL AS A WHOLE**

In the matter to discuss and direct staff to begin preparations to enter into the California Statewide Communities Development Authority (CSCDA) Energy Efficiency Funding Program, which will allow property owners to pay for solar projects and energy-efficiency upgrades through their property taxes. Susan Segovia of the Finance Department gave an overview of the item. Simms Thompson spoke on this item. Following discussion, on motion of Mayor McLaughlin, seconded by Councilmember Viramontes approved the item by the unanimous vote of the Council.

In the matter to discuss and direct staff to draft amendments to the City Council Rules of Procedure and Order to: (1) limit the amount of time each councilmember may speak as to each agenda item; (2) change the starting time of City Council meetings to 6:30 p.m., with Open Forum to occur between 6:30 and 7:00; and (3) change the ending time of City Council meetings to 11:00 p.m., unless, by a two-thirds vote, the Council extends the ending time beyond 11:00 p.m. Councilmember Bates gave an overview of the item. Simms Thompson spoke on this item. Following discussion a motion was made by Mayor McLaughlin to limit the amount of time each Councilmember may speak to three to five minutes for

framing the issue and other Councilmembers that want to comment would have 2 minutes. The motion failed for lack of a second. A motion was made by Councilmember Viramontes to accept the proposal for a 6:30 starting time and 11 p.m. ending time. Vice Mayor Lopez seconded the motion and offered a friendly amendment to combine meetings of special agencies. A friendly amendment was offered by Councilmember Rogers to hold public comments and presentations to follow starting at 6:30 p.m. to 7:15 p.m. with presentation limited to three per meeting, five minute for each presentation, consolidate meetings when legally possible, hold executive session three times a month starting at 5:00 p.m. and adjourn meetings at 11:00 p.m. unless extended by a majority vote of the Council. The friendly amendments were accepted. A friendly amendment was offered by Mayor McLaughlin to have Councilmembers be concise. The amendment was accepted. A friendly amendment was offered by Councilmember Rogers to start executive session at 5:00 p.m., if needed, and if executive session is completed early, staff could schedule other items directly after executive session, but before the 6:30 p.m. start time. The amendment was accepted. Councilmember Butt stated the city clerk should monitor the allotted time for speakers and presentations. Councilmember Viramontes verified that the order of the agenda would be roll call, statement of conflict of interest, open forum, agenda review, and consent calendar. The motion with all accepted amendments was approved by the following vote: **Ayes:** Councilmembers Bates, Ritterman, Rogers, and Viramontes. **Noes:** Councilmember Butt and Mayor McLaughlin. **Abstentions:** None. **Absent:** Vice Mayor Lopez.

In the matter to direct staff to apply for U.S. Department of Energy Grant to provide 20 free electric vehicles for three years for city fleet with limited in-kind match from the City of Richmond. Councilmember Rogers gave an overview of the item and made a correction to the number of electric vehicles requested which should read 100 electric vehicles. On motion of Councilmember Rogers, seconded by Councilmember Ritterman approved the item by the unanimous vote of the Council. **Vice Mayor Lopez was absent for the vote.**

In the matter to restate Resolution 47-08 in support of UC Berkeley Expansion at Richmond Field Station and direct staff to actively pursue this as an outcome, including enlisting assistance from Congress and the California legislature. Councilmember Butt gave an overview of the item. He stated he received some suggested minor revisions to the resolution on June 2, 2009, and the gist of the revisions was that there are three buildings being considered for the Strawberry Canyon Watershed: (1) the Computational Research and Theory Facility (CRT), (2) Helios Research Building, and (3) the General Purpose Laboratory Building. Councilmember Butt stated he would like to add this information to the resolution. Councilmember Bates recommended the City of Richmond hold discussions with US Berkeley to explore alternatives. Mayor McLaughlin made a brief announcement that a Study Session was scheduled for Tuesday, June 23, 2009, with Richmond Southeast Shoreline Area Community Advisory Group (CAG) and technical consultants on issues and concerns surrounding

toxicity and public health in the area of Richmond's southeast shoreline. Speakers were: Carolyn Graves, Jovanka Beckles, Joan Lichterman. Discussion began and Councilmember Rogers offered a friendly amendment to the resolution that the City of Richmond have discussions with UC Berkeley about any development opportunities and not focus on these two items where it may be perceived that the City of Richmond is trying to bring UC Berkeley to Richmond. Councilmember Butt did not accept the amendment. Discussion continued and Vice Mayor Lopez offered a friendly amendment to the resolution to include "Be it further resolved that if for some reason the Helios project is not adopted that the City of Richmond is willing to have discussions with UC Berkeley and consider the Richmond Field Station for significant future capital improvement projects that promotes economic development, protects habitats, and encourages the green economy." Councilmember Butt accepted the amendment. Following discussion, a motion was made by Councilmember Butt, seconded by Councilmember Bates to approve the item with amendments to the resolution. The motion passed and **Resolution No. 43-09** was adopted to restate Resolution 47-08 by the following vote: **Ayes:** Councilmembers Bates, Butt, Ritterman, Viramontes, and Vice Mayor Lopez. **Noes:** Councilmember Rogers and Mayor McLaughlin. **Abstentions:** None. **Absent:** None.

**Withdrew from the agenda** in the matter to discuss and direct staff to draft a resolution in support of the Oakland Airport Connector.

In the matter to accept the Save America's Historic Treasures grant award in the amount of \$150,000 for the preservation of Shipyard 3 Historic District and approve a funding match ranging from \$75,000 to \$150,000 to come from the Honda Port of Entry project financing. Councilmember Butt gave an overview of the item. He stated that the grant was not to the City of Richmond, it was to the Rosie the Riveter Trust which came out of the federal budget bill at the request of Congressman George Miller. He also stated that it is a matching grant. Jim Matzorkis spoke on this item. Following discussion, a motion was made by Councilmember Bates, seconded by Councilmember Viramontes to refer back to staff and come back with an evaluation and analysis of two plans to retain the build and rehabilitate and the cost or demolish and revenue generating or a combination. A substitute motion was made by Councilmember Butt, seconded by Councilmember Rogers to approve and drop the funds coming from the Honda Port of entry project. The substitute motion failed due to a tie. The original motion passed by the following vote: **Ayes:** Councilmembers Bates, Ritterman, Viramontes, and Vice Mayor Lopez. **Noes:** Councilmember Rogers and Mayor McLaughlin. **Abstentions:** Councilmembers Butt. **Absent:** None. A motion was made by Councilmember Rogers, seconded by Councilmember Butt, to approve the original motion with a grant limit of \$50,000. The motion passed by the following vote: **Ayes:** Councilmembers Butt, Ritterman, Rogers, and Mayor McLaughlin. **Noes:** None. **Abstentions:** Councilmembers Bates, Viramontes, and Vice Mayor Lopez. **Absent:** None.

In the matter to hear a status report and direct staff regarding the General Plan Update. Councilmember Bates gave an overview of the item. Requested cost of general plan and timetable of when the project will be presented to the Council.

Planning and Building Services Department Director Richard Mitchell gave a brief status report on the item and stated a full presentation is scheduled for the next Study Session. He also stated that the administrative draft will be released in late June or early July 2009. A motion was made by Vice Mayor Lopez, seconded by Councilmember Rogers to direct staff to include in the Study Session scheduled for May 26, 2009, a schedule for the City Council to adopt the final general plan before the end of the year 2009. The motion passed by the following vote: **Ayes:** Councilmembers Bates, Butt, Ritterman, Rogers, and Vice Mayor Lopez. **Noes:** None. **Abstentions:** Councilmember Viramontes and Mayor McLaughlin. **Absent:** None.

*On motion of Councilmember Bates, seconded by Councilmember Rogers extended the meeting for 15 minutes with Councilmembers Butt, Ritterman, and Viramontes voting Noe.*

**REPORTS OF OFFICERS: STANDING COMMITTEE REPORTS, REFERRALS TO STAFF, AND GENERAL REPORTS (INCLUDING AB 1234 REPORTS)**

**Councilmember Rogers reported he met with David Thurmond in Pasadena the week of May 9<sup>th</sup>, 2009, regarding redevelopment activities.**

**Vice Mayor Lopez announced that Girls, Inc. was currently accepting applications for the summer. Call (510) 232-5440 for more information.**

**Councilmember Bates requested Mayor McLaughlin adjourn the meeting in memory of Jim Kenney and requested staff look into renaming Huntington Park after Mr. Kenney. He also requested the meeting be adjourned in memory of Vernie Robinson long time resident of Richmond.**

**ADJOURNMENT**

There being no further business, the meeting adjourned at 12:21 a.m. in memory of Jim Kenney, Vernie Robinson, Charles Douglas Keeton, and Maxine Studdard, to meet again on Tuesday, May 26, 2009, at 7:00 p.m.

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City Clerk

(SEAL)

Approved:

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Mayor